



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Dixit, et. al.

Docket No.: PF335D2

Serial No.: 09/961,201

Art Unit: 1644

Filed: September 24, 2001

Examiner: P.N. Huynh

Title: Interleukin-1 Beta Converting  
Enzyme Like Apoptosis Protease 6

**Statement Concerning the Deposited cDNA Clone**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned attorney of record hereby states:

1. A plasmid containing human cDNA encoding human Interleukin-1 Beta Converting Enzyme Like Apoptosis Protease 6 polypeptide was deposited under the terms of the Budapest Treaty on May 30, 1996 at the American Type Culture Collection (ATCC), Patent Depository, 10801 University Boulevard, Manassas, Virginia 20110-2209 (current address), and given accession number 97590.

2. Assurance is hereby given that: (1) the deposit was made under terms of the Budapest Treaty; (2) except for the limitations allowed by 37 C.F.R. § 1.808(b), all restrictions on the availability to the public of the deposit will be irrevocably removed upon the granting of a patent from the captioned application; (3) the deposit has been made under conditions such that access to the material will be available during the pendency of the captioned patent application to one determined by the Commissioner; and (4) the deposit will be maintained with the care necessary to keep it viable and uncontaminated for a period of at least five years after the most recent request for the furnishing of a sample of the deposit, and in any case, for a period of at least thirty years after the date of deposit or for the enforceable life of the patent, whichever period is longer.

Respectfully submitted

Date: 19 February 2004

  
\_\_\_\_\_  
Lin J. Hymel (Reg. No.45,414)  
Attorney for Applicants



# American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)231-5520 Telex: 908-768 ATCCROVE • FAX: 301-816-4366

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

RECEIVED

JUN 11 1996

HGS PATENT DEPT.

To: (Name and Address of Depositor or Attorney)

Human Genome Sciences, Inc.  
Attn: Robert H. Benson, Ph.D., J.D.  
9410 Key West Avenue  
Rockville, MD 20850

Deposited on Behalf of: Human Genome Sciences, Inc.

Identification Reference by Depositor:

ATCC Designation

DNA plasmid 1290857

PF303.5B

97589

DNA plasmid 1095150

PF304.5B

97590

The deposits were accompanied by: ☐ a scientific description ☐ a proposed taxonomic description indicated above.

The deposits were received May 30, 1996 by this International Depository Authority and have been accepted.

### AT YOUR REQUEST:

☒ We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested June 6, 1996. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey  
Barbara M. Hailey, Administrator, Patent Depository

Date: June 6, 1996

American Type Culture Collection

12301 Parklawn Drive, Rockville, MD 20852 USA, Telephone (301) 231-5520 Fax (301) 816-4366

TO DEPOSIT OR TO CONVERT A DEPOSIT TO MEET THE REQUIREMENTS OF  
BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE  
DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

1. Name of deposit (e.g., microorganism, cell line, seed, plasmid, etc.). If cell line, please provide tissue & species.  
DNA Plasmid
  2. Strain designation (i.e., number, symbols, etc). 1095150
  3. Is this an original deposit under the Budapest Treaty? Yes
  4. Is this a request for a conversion of a deposit already at the ATCC to meet the requirements of the Budapest Treaty?  
If so, please indicate ATCC designation. No
  5. Is this deposit a mixture of microorganisms or cells? No
  6. Provide details necessary to cultivate, test for viability and store deposit. If mixture, provide description of components and a method to check presence.  
See instructions attached as Appendix A
  7. Provide an indication of the properties of the strain which are or may be dangerous to health or the environment.  
Not aware of any such properties
  8. Provide sufficient description so that ATCC may confirm deposit properties (e.g., Gram negative rod).  
n/a
    - a. If deposit is a cell culture, is it being cultured in the presence of antibiotics? If so, please list the antibiotics.
    - b. If deposit is hybridoma, what is the isotype of antibody produced?
  9. Is this strain zoopathogenic? n/a phytopathogenic? n/a
  10. (MUST BE COMPLETED) Packaging Class I, II, III, IV (In accordance with U.S. Public Health Services Regulation 42 C.F.R. § 72.3 (a)-(f))? I
  11. Does this strain contain plasmids relevant to the patent process? Yes  
If so, what physical containment level is required (National Institutes of Health Guidelines Involving Recombinant DNA Molecules, i.e., P1, P2, P3 or P4 facility)? P1
  12. Isolated from?
- \* The answers to these questions are recommended but not required.

## ATCC USE ONLY

ATCC DESIGNATION \_\_\_\_\_ RECEIVED \_\_\_\_\_ V.T. RESULT &amp; DATE \_\_\_\_\_

FEES: 30 years' storage \$600. 30 years' notification \$360. Viability testing \$100 to \$400 or quoted price, dependent upon necessary material and/or equipment. Expedite ATCC number \$10. Return sample for approval (if not submitted frozen or freeze-dried) etc. Prepare additional samples of cells or hybridomas \$500. Additional costs for return of samples outside U.S.A. after the last request for a sample, as

13. After a U.S. Patent issues, ATCC makes the culture available to anyone who requests it, as allowed under U.S. law. Prior to issuance of a U.S. Patent, ATCC will only make a culture available as instructed by the depositor or relevant patent office. In addition to those entitled to a sample under the Budapest Treaty and the European Patent Convention, do you wish the strain made available:

- a. As of the date of deposit to anyone who requests a culture? (If "yes", there are no restrictions on distribution from date of deposit or conversion to Budapest). NO
- b. To requestors which satisfy Patent Offices in countries not signatory to the Budapest Treaty? If "yes", please state which countries. \_\_\_\_\_

Yes, Canada, South Africa, Israel, Mexico

14. Do you wish ATCC to inform you of all requests for this strain? (\$360 fee for 30-year informing). Yes

15. Would you like expedited notification of your ATCC number? (\$10 fee). ATCC must observe viability first. \_\_\_\_\_

Name of Individual. Robert H. Benson, Ph.D., J.D.

Fax No. (301) 309-8512 Telephone No. (301) 251-6015

16. Payment by check, or credit card (MasterCard or VISA), must accompany the deposit unless prior arrangements for billing have been made and approved. If arrangements have been made to bill you for services, please indicate person who should receive invoice. Also, please include P.O. number.

Tina Powers c/o Human Genome Sciences, Inc.  
9410 Key West Avenue  
Rockville, Maryland 20850

Credit Card number (indicate MasterCard or VISA) \_\_\_\_\_

Expiration Date \_\_\_\_\_

Type or print the name shown on credit card \_\_\_\_\_

Signature \_\_\_\_\_

17. Name and address of your attorney of record. Robert H. Benson, Ph.D., J.D.  
Human Genome Sciences, Inc., 9410 Key West Avenue, Rockville, Maryland 20850

18. **MUST BE COMPLETED.** Owner of deposit. (Verify with your management who owns the deposit. The owner is usually a company or institute, and normally is not an individual.) HUMAN GENOME SCIENCES, INC.

9410 Key West Avenue, Rockville, MD 20850

19. Additional comments. PF304.SB

I understand and agree that the deposit may not be withdrawn by me for a period specified in Rule 9.1 of the Budapest Treaty (at least 30 years after the date of deposit and 5 years after the date of the most recent request for the deposit), and that if a culture should die or be destroyed during the life of the patent, or the period of time specified, it is my responsibility to replace it with a living culture of the same organism or cell. In the cases of viruses, cell cultures, plasmids, embryos, and seeds, it is my responsibility to supply a sufficient quantity for distribution for the period of time specified above.

Typed Name Robert H. Benson

Signature

*Robert H. Benson*

Date MAY 30, 1996

Address. 9410 Key West Avenue  
Rockville, MD 20850

THIS FORM MUST BE COMPLETED IN ENGLISH

ADDRESS SHIPMENTS AND FORM TO THE ATTENTION OF:

Ms. Annette L. Bade, Esq.  
 American Type Culture Collection  
 12301 Parklawn Drive  
 Rockville, MD 20852 U.S.A.



1644

PTO/SB/17 (10-03)  
Approved for use through 7/31/2006. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003, Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 540.00

## Complete if Known

Application Number	09/961,201
Filing Date	September 24, 2001
First Named Inventor	Vishva M. Dixit
Examiner Name	P. N. Huynh
Art Unit	1644
Attorney Docket No.	PF335D2

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number

08-3425

Deposit Account Name

Human Genome Sciences, Inc.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below		Fee Paid
63	-43** =	20	x	18.00	=	360.00
Independent Claims		8	-8** =		x	0.00
Multiple Dependent					=	

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 360.00

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	180.00
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 180.00

## SUBMITTED BY

Name (Print/Type)	Lin J. Hymel	Registration No. (Attorney/Agent)	45,414	Telephone	(301) 251-6015
Signature		Date	February 19, 2004		